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San Marcos
Consolidated Independent School District

Dedicated to Education... Committed to Excellence

14 Sep, 2009

San Marcos Consolidated Independent School District
Department of Technology
511 Burleson Street
P.O. Box 1087
San Marcos, TX 78667-1087

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Dear FCC Reviewer,

San Marcos Consolidated ISD respectfully submits this 'Request for Review' of USAC's denial of our previous appeal.

APPEAL

Please review the information provided, and consider reversing the previous decision issued by the USAC SLD. D2SC (a.k.a. EdSoft) has been an approved eRate vendor since 2003, and reports they have provided their eligibility figures to USAC/FCC. These previously approved figures are the only way SMCISD can report which components of their Web Hosting service are eligible vs. ineligible according to the Eligible Services List (ESL). If USAC or the FCC disagrees with the percentage of services that qualify as eligible according to D2SC, we request that these percentages be negotiated directly with D2SC, and that SMCISD be given the opportunity to request appropriate reimbursement.

ADMINISTRATIVE DATA

CC Docket No. 96-45
CC Docket No. 02-06
Billed Entity Number: 141733
471 Application Number: 632665 (Funding Year 2008)
Funding Request Number (FRN): 1748626
SMCISD Contact Information: Greg Hubenak, Director of Technology
Email address: greg.hubenak@smcisd.net
Telephone Number: 512.393.6905 Fax: 512.392.7095

511 Burleson Street • San Marcos, Texas 78666 • (512) 393-6768

DESCRIPTION OF SERVICES

In response to the inquiries, we are providing our summarized understanding of the eligible and ineligible components. The total cost of service with D2SC is \$51,400. From this total amount, we understand that \$15,838 of that is ineligible and \$35,562 is eligible per the vendor's documentation. The SMCISD FRN requests reimbursements only for eligible services in the pre-discounted amount of \$35,562. Again, this FRN has all ineligible components removed and is only for 100% eligible components. We based the numbers directly on figures provided by the vendor in their proposal/contract on what portions of their service were eligible based upon guidelines set forth in the ESL.

The detailed information in the table below was provided by the vendor and reformatted by SMCISD:

D2SC Web Hosting for San Marcos Consolidated ISD	Ineligible Cost	Eligible Cost	471 Block 23h (Total FRN Pre-Discounted Amount for eligible non-Recurring charges)
Provision of web site traffic (bandwidth)		\$1,404	\$1,404
Provision of disk space for storing applicant-provided content		\$13,658	\$13,658
Providing FTP transfer capacity so that files can be maintained		\$500	\$500
Maintenance and Support of Internet Access (Items 1-3 above)		\$17,500	\$17,500
Firewalls, security, equipment and other protocols in support of Internet Access (Items 1-3 above)		\$2,500	\$2,500
Year end rollover service	\$1,000		
Access to software applications	\$14,838		
TOTAL	\$15,838	\$35,562	\$35,562

BACKGROUND

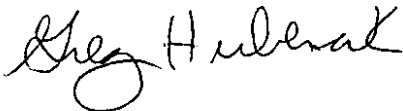
During the Program Integrity Assurance process, we responded to a PIA question (Label 2) regarding the eligibility of the D2SC FRN. Our response (Label 3) clarified that we removed all ineligible components of service prior to submitting the FRN and we attached the vendor documentation that outlined the eligibility of services according to the Eligible Services List (ESL).

However, USAC issued the FCDL on 5/27/2009 (Label 4) that denied our FRN with an explanation: "DR1: 30% or more of this FRN includes a request for WEB Hosting from EdSoft which is an ineligible product(s)/Service(s) based upon program rules; which is an ineligible use based on program rules."

SMCISD appeal dated 6/1/2009 (Label 5) re-stated that the original Item 21 attachment (Label 1) and subsequent PIA response may have been misinterpreted because ineligible components were reported, although ALL of the ineligible components were removed from the FRN prior to submission. Only charges that the vendor certified were eligible were included in the FRN. The vendor's invoices clearly delineate the eligible vs. ineligible expenses, and were attached with our appeal. The vendor invoices align with both the PIA documentation and the original Item 21 attachment. However, USAC denied the appeal on 08/14/2009 (Label 6) stating that SMCISD failed to provide appropriate documentation. The vendor's definition of the components of their service categorized by the ESL is the only documentation SMCISD can provide.

Point of contact for this correspondence is Greg Hubenak, Director of Technology, SMCISD. Greg.hubenak@smcisd.net, 512.393.6905.

Respectfully,

A handwritten signature in black ink, appearing to read "Greg Hubenak", with a stylized flourish at the end.

GREG HUBENAK
Director of Technology
SMCISD

Item 21 Attachment

Internet Access

Funding Year 2008

Applicant Name	SAN MARCOS CONS INDEP SCH DIST
Billed Entity Number	141733
Form 471 Application Number	632665
Funding Request Number	1748626
Service Provider	EdSoft Software Corporation (D2SC)
Service Provider Identification Number	143028266
Attachment Number	SM471_IA1_B_A01

Narrative description of this Funding Request:

Web Hosting portion of an assessment data management and reporting service. Online service provides secure, dedicated, web-based access to student grades, assessment data, and custom reports.

Quantity	Product or Service Description	Unit Cost	ELIGIBLE		IN-ELIGIBLE	
			Extended Pre-Discount Cost		Extended Pre-Discount Cost	
			Recurring	Non-Recurring	Recurring	Non-Recurring
1	Annual Web Hosting fee	\$35,562.00		\$35,562.00		
1	Annual Software Application fee	\$14,838.00				\$14,838.00
1	Year End Rollover Services	\$1,000.00				\$1,000.00
		SUB-TOTALS	\$0.00	\$35,562.00	\$0.00	\$15,838.00
TOTAL PRE-DISCOUNTED FUNDING REQUEST ON 471			\$35,562.00			

Further Information:

Ineligible one time fees, and ineligible portions of annual fees have been removed from the request.

LABEL 2

Sep 26, 2008

Greg Hubenak

SAN MARCOS CONS INDEP SCH DIST

Telephone:

(512) 3936905

Application Number

632665

Response Due Date: 10/11/2008

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2008 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2008 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below

ITEM 1: WEB Hosting from EdSoft is not Erate eligible

Based on the documentation that you have provided, the entire **FRN #1748626** is requesting an ineligible product/service and will be denied. The ineligible product/service is: **WEB Hosting from EdSoft**. For additional guidance on determining eligible services, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step06/>.

If the entire FRN should not be denied and you have alternative information, please provide the supporting documentation.

LABEL 2

Please confirm the denial of the FRN: ____ Yes

If you fail to respond to this email within 15 days, we will perform the action(s) listed above.

Please fax or email the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Donna M. Cromie

Program Integrity Assurance

Schools & Libraries Division

Universal Service Administrative Company

Voice: 973-581-5042

Fax: 973-599-8522

Email: DCromie@sl.universalservice.org



30 September 2008

Department of Technology
511 Burleson Street
P.O. Box 1087
San Marcos, TX 78667-1087

Donna M. Cronic
Schools and Libraries Division
Program Integrity Assurance
100 S. Jefferson Rd
P.O. Box 902
Whippany, NJ 07981

Ms. Cronic,

This correspondence is the SMCISD response to your PIA review and information request dated 26 September, 2008.

ITEM 1

WEB Hosting from EdSoft

We disagree that the entire FRN #1748626 is ineligible.

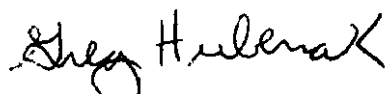
In previous years, the eligible portions of the service have been approved and reimbursed through the E-Rate program. Consequently, we have submitted for the eligible components of the service and the ineligible components have been left out. The total cost of service with D2SC is \$51,400. From this total amount, we understand that \$15,838 of that is ineligible and \$35,562 is eligible. We based the numbers directly on figures provided by the vendor in their proposal/contract on what portions of their service were eligible based upon guidelines set forth in the 'Eligible Services List'.

In response to your inquiry, we are now providing the details of the eligible and ineligible components. The following table of detailed information was provided by the vendor:

D2SC Web Hosting for San Marcos Consolidated ISD	Eligibility	Cost	% of Total Eligible Cost	% of Total Ineligible Cost
Provision of web site traffic (bandwidth)	ELIGIBLE	\$1,404	2.7%	
Provision of disk space for storing applicant-provided content	ELIGIBLE	\$13,658	26.6%	
Providing FTP transfer capacity so that files can be maintained	ELIGIBLE	\$500	1.0%	
Maintenance and Support of Internet Access (Items 1-3 above)	ELIGIBLE	\$17,500	34.0%	
Firewalls, security, equipment and other protocols in support of Internet Access (Items 1-3 above)	ELIGIBLE	\$2,500	4.9%	
Year end rollover service	INELIGIBLE	\$1,000		1.9%
Access to software applications	INELIGIBLE	\$14,838		28.9%
TOTAL		\$51,400	69.2%	30.8%

Please let me know if this information is sufficient in supporting our FRN, or if additional data is required. Point of contact for this correspondence is Greg Hubenak, Director of Technology, SMCISD. Greg.hubenak@smcisd.net, 512.393.6905.

Respectfully,



GREG HUBENAK
Director of Technology
SMCISD

FUNDING COMMITMENT REPORT
Billed Entity Name: SAN MARCOS CONS INDEP SCH DIST
BEN: 141733
Funding Year: 2008

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 632665
 Funding Request Number: 1748626
 Funding Status: Not Funded
 Category of Service: Internet Access
 Form 470 Application Number: 208470000646785
 SPIN: 143028266
 Service Provider Name: EdSoft Software Corporation
 Contract Number: N/A
 Billing Account Number: N/A
 Multiple Billing Account Numbers: N
 Service Start Date: 07/01/2008
 Service End Date: N/A
 Contract Award Date: 02/05/2008
 Contract Expiration Date: 06/30/2009
 Shared Worksheet Number: 1015465
 Number of Months Recurring Service Provided in Funding Year: 12
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$35,562.00
 Pre-discount Amount: \$35,562.00
 Discount Percentage Approved by the USAC: 82%
 Funding Commitment Decision: \$0.00 - Ineligible Services/Products
 Funding Commitment Decision Explanation: DRI: 30% or more of this FRN includes a request for WEB Hosting from EdSoft which is an ineligible product(s)/service(s) based on program rules; which is an ineligible use based on program rules.

FCDL Date: 05/27/2009
 Wave Number: 053
 Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2010



1 June, 2009

Department of Technology
511 Burleson Street
P.O. Box 1087
San Marcos, TX 78667-1087

Letter of Appeal
100 S. Jefferson Rd
P.O. Box 902
Whippany, NJ 07981

Sir or Madam,

This correspondence constitutes our appeal to the denial of FRN 1748626 per the FCDL dated May 27, 2009.

We understand that the FRN was denied based upon a perceived violation of the '30% rule'. This rule outlines that *'the FRN will be denied if ...30% OR MORE of the FRN is for ineligible products or services'*. However, the ineligible components of the service were removed BEFORE submitting the FRN so 100% of the funding request is for eligible services. As a result, the 30% rule should not apply to this funding request.

Previous correspondence sent during the PIA process has been attached for reference. It's possible that a quick review of the figures provided by SMCISD could be interpreted as a rule violation. However, a closer inspection will reveal an explanation that is consistent with our current appeal. Additional documentation is also provided that shows the total amount SMCISD pays for service, thus substantiating the fact that the ineligible services were removed prior to submitting the FRN.

Please let me know if this information is sufficient in supporting this appeal, or if additional data is required. Point of contact for this correspondence is Greg Hubenak, Director of Technology, SMCISD. Greg.hubenak@smcisd.net, 512.393.6905.

Respectfully,

GREG HUBENAK
Director of Technology
SMCISD

D2 Data Driven Software Corporation



900 Jackson St. #B175
Dallas, TX 75202

Invoice

Date	Invoice #
7/1/2008	886
Terms	Due Date
Net 15	7/16/2008

Customer

SAN MARCOS ISD
P.O. Box 1087
San Marcos, Texas 78667-1087

P.O. No.

Item	Description	Hrs/Units	Rate	Amount
System Subsc...	Web Hosting Services July and August 2008 billings 2008-09 Subscription - D2SC Web Hosting Services - eRate eligible expenses. Contract Period: 07/01/08 to 06/30/09	1	5,927.00	5,927.00
System Subsc...	2008-09 Subscription - D2SC software - non-eRate eligible expenses. Contract Period: 07/1/08 to 06/30/09	1	2,473.00	2,473.00
IMPLEMENTAT...	Year-end Rollover in System Preparation for New Academic Year/Rosters	1	1,000.00	1,000.00

Subtotal	\$9,400.00
Sales Tax (1.5%)	\$0.00
Total	\$9,400.00
Payments/Credits	\$0.00
Balance Due	\$9,400.00

D2 Data Driven Software Corporation



900 Jackson St. #B175
Dallas, TX 75202

Invoice

Date	Invoice #
9/1/2008	888
Terms	Due Date
Net 15	9/16/2008

Customer
SAN MARCOS ISD P.O. Box 1087 San Marcos, Texas 78667-1087

P.O. No.

Item	Description	Hrs/Units	Rate	Amount
System Subsc...	Web Hosting Services September thru June 30, 2009 2008-09 Subscription - D2SC Web Hosting Services - eRate eligible expenses. Contract Period: 07/01/08 to 06/30/09	1	29,635.00	29,635.00
System Subsc...	2008-09 Subscription - D2SC software - non-eRate eligible expenses. Contract Period: 07/1/08 to 06/30/09	1	12,365.00	12,365.00
			Subtotal	\$42,000.00
			Sales Tax (1.5%)	\$0.00
			Total	\$42,000.00
			Payments/Credits	\$0.00
			Balance Due	\$42,000.00



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2008-2009

August 14, 2009

Greg Hubenak
San Marcos Cons Indep Sch Dist
511 Burleson Street
PO Box 1087
San Marcos, TX 78667-1087

Re: Applicant Name: SAN MARCOS CONS INDEP SCH DIST
Billed Entity Number: 141733
Form 471 Application Number: 632665
Funding Request Number(s): 1748626
Your Correspondence Dated: June 01, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2008 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1748626
Decision on Appeal: **Denied**
Explanation:

- After a complete review of your appeal, USAC has determined that this request contained ineligible D2SC/EdSoft Software Corp WEB Hosting. USAC has given San Marcos Consolidated Independent School District and EdSoft Software Corp an opportunity to provide additional documentation to enable USAC to appropriately revise your funding request and provide the appropriate additional documentation demonstrating the eligibility of the products and/or services requested, but failed to do so. The Schools and Libraries Support Mechanism rules and procedures provide that if 100% of the funding request is for ineligible products or services, the funding request must be denied. On appeal, you have failed to provide any evidence that USAC erred in its initial determination. Consequently, your appeal is denied.

- FCC rules provide that funding may be approved only for eligible products and services. *See* 47 C.F.R. secs. 54.502, 54.503. The USAC website contains a list of eligible products and services. See the website, www.usac.org/sl, Eligible Services List. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. *See* 47 C.F.R. sec. 54.504(d). The FCC's Aiken County Public Schools Order directed USAC to permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible. *See* Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools Aiken, SC, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-397612, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 8735, FCC 07-61 para. 11 (May 8, 2007).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company